UNITED NATIONS

United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court

Rome, Italy
15 June-17 July 1998

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A/CONF.183/4
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ORIGINAL: ENGLISH

Communications received regarding consultations on the draft rules of procedure of the Conference (rules 6, 11 and 49) and the candidature of the Chairman of the Committee of the Whole

Note by the Secretary-General

1. On 3 April 1998 the Preparatory Committee on the Establishment of an International Criminal Court adopted provisional rules of procedure for the Conference on the Establishment of an International Criminal Court and recommended that those rules be adopted by the Conference. However, the Preparatory Committee was unable to agree on the composition of the General Committee and the Drafting Committee. Therefore, figures in rules 6, 11 and 49 appear in square brackets (see A/CONF.183/2/Add.2).

2. At the request of the regional groups, the Legal Counsel, Mr. Hans Corell, continued consultations on the composition of those Committees. During those consultations, agreement was reached on the following:

General Committee

The President	1
The Chairman of the Committee of the Whole	1
The Chairman of the Drafting Committee	1
31 Vice-Presidents, as follows:	
African States	8
Asian States	8
Eastern European States	4
Latin American and Caribbean States	5
Western European and Other States	6
Total	34

Drafting Committee

The Chairman	1
Members as follows:	
African States	5
Asian States	6
Eastern European States	3
Latin American and Caribbean States	4
Western European and Other States	6
Total	25

Consequently, the figures set out in square brackets in rules 6, 11 and 49, respectively, should be replaced by the figures now agreed among the regional groups, as follows:

Rule 6: for [22] read 31;

Rule 11: for [25] read 34;

Rule 49: for [21] read 25 and for [20] read 24.

3. In a letter dated 21 May 1998 addressed to the Chairman of the regional groups, Mr. Adriaan Bos (Netherlands) who had been nominated by the regional groups as Chairman of the Committee of the Whole, stated, inter alia, the following:

> "I should like to express my deepest gratitude to your Regional Group for nominating me to the post of Chairman of the Committee of the Whole of the United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court. I have considered this a great honour and as one of the most important assignments of my entire career. It has always been my fullest intention to do my very best to accomplish the mandate that would be entrusted to me as Chairman of the Committee of the Whole at the Rome Conference.
>
> "It is therefore with the deepest regret that I have to inform your Regional Group that I will not be able to assume the function as the Chairman of the Committee of the Whole. I have recently learned that I will have to undergo surgery and, thereafter, a course of medical treatment. Accordingly, as you may readily appreciate, I will not physically be in a position to serve the Conference with the requisite energy. In the circumstances, I wish to suggest that the Regional Groups nominate another person for the post of Chairman of the Committee of the Whole.

"I should like to recommend strongly for this post Ambassador Philippe Kirsch, Legal Adviser of the Foreign Ministry of Canada. His impartiality, diplomatic experience and negotiating skills are well known and are universally recognized within the United Nations system. He has chaired many international meetings. Ambassador Kirsch enjoys my complete confidence and I have every faith that he will be able to provide the necessary leadership and dedication to the work of the Committee of the Whole. Accordingly, I would urge your Regional Group to give its fullest support to the nomination of Ambassador Philippe Kirsch. I understand that he is willing to assume that position.

"I always enjoyed working with the representatives of your group and I had great hopes for continuing this cooperation in Rome together with all other Members of the United Nations. I express the hope that the wish of so many to see the Statute of the International Criminal Court adopted in Rome, will be fulfilled! ..."

4. Following the consultations referred to in paragraph 2 above, the regional groups agreed on the nomination of Mr. Philippe Kirsch (Canada) as Chairman of the Committee of the Whole of the Conference.

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8 June 1998

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Communication received regarding consultations on the draft rules of procedure of the Conference (rules 19, 36 and 52)

Note by the Secretary-General

1. On 3 April 1998 the Preparatory Committee on the Establishment of an International Criminal Court adopted provisional rules of procedure for the Conference on the Establishment of an International Criminal Court and recommended that those rules be adopted by the Conference. However, the Preparatory Committee was unable to agree on the rule on a quorum and certain rules on voting. Therefore, rules 19, 36 and 52 appear in square brackets (see A/CONF.183/2/Add.2).

2. By a letter dated 2 June 1998, the Permanent Mission of the Netherlands to the United Nations informed the Legal Counsel, Mr. Hans Corell, that, following informal consultations among interested delegations, a proposal for a solution had emerged with respect to the provisions in question. According to this proposal, the draft rules of procedure, as reflected in document A/CONF.183/2/Add.2, should be amended as follows:

(a) The square brackets around rule 19 should be removed and the text of the draft rule should be adopted;

(b) Rule 36 should be formulated as follows:

"Rule 36. Majority required

"1. Subject to rule 34, decisions of the Conference on the adoption of the text of the Statute of the International Criminal Court as a whole shall be taken by a two-thirds majority of the representatives present and voting, provided that such majority shall include at least a majority of the States participating in the Conference.

"2. Subject to rule 34, decisions of the Conference on all other matters of substance shall be taken by a two-thirds majority of the representatives present and voting.

"3. Decisions of the Conference on matters of procedure shall be taken by a majority of the representatives present and voting.

"4. If the question arises whether a matter is one of procedure or of substance, the President shall rule on the question. An appeal against this ruling shall be put to the vote immediately and the President's ruling shall stand unless overruled by a majority of the representatives present and voting.

"5. If a vote is equally divided, the proposal or motion shall be regarded as rejected.";

(c) The square brackets around rule 52 should be removed; the text of paragraphs (a) to (d) should remain unchanged, and paragraph (e) should be formulated as follows:

"(e) Subject to subparagraph (d), decisions on matters of substance shall be taken by a three-fifths majority of the representatives present and voting, provided that such a majority includes at least one third of the States participating in the Conference. Other decisions shall be taken by a majority of the representatives present and voting, except that the reconsideration of a proposal shall require the majority established by rule 33."